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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-third session

SUMMARY RECORD OF THE 27th MEETING
(SECOND PART)*

Held at the Palais des Nations, Geneva,
on Thursday, 23 August 1991, at 3.30 p.m.

Chairman: Mr. JOINET

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Consideration of draft resolutions and decisions (continued)

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* The summary record of the first part of the meeting appears as document E/CN.4/Sub.2/1991/SR.27.

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CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS (continued)

Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories; report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) (agenda item 6) (continued) (E/CN.4/Sub.2/1991/L.5, 13-21)

Draft resolution E/CN.4/Sub.2/1991/L.5

1. Mrs. ATTAH proposed two amendments to the draft resolution. First, in the second line of operative paragraph 3 of the English text, the word "resided" should be replaced by the word "resulted". Second, the following new paragraph should be inserted between the fourth and fifth preambular paragraphs: "Welcoming also the accord of 16 August 1991 between the United Nations and the Government of South Africa which opens the way for refugees to return to South Africa and for the release of political prisoners,".

2. Draft resolution E/CN.4/Sub.2/1991/L.5, as amended, was adopted by secret ballot by 20 votes to none, with 1 abstention.

Draft resolution E/CN.4/Sub.2/1991/L.13

3. Draft resolution E/CN.4/Sub.2/1991/L.13 was adopted by secret ballot by 10 votes to 1, with 1 abstention.

Draft resolution E/CN.4/Sub.2/1991/L.14

4. The CHAIRMAN said that the name of Mr. Suescún Monroy appeared by mistake as one of the sponsors of the draft. Mrs. Attah, Mr. Guissé and Mr. Khalil had become sponsors of the draft.

5. Draft resolution E/CN.4/Sub.2/1991/L.14 was adopted by secret ballot by 16 votes to 2, with 4 abstentions.

Draft resolution E/CN.4/Sub.2/1991/L.15

6. Mrs. KSENTINI proposed the insertion of the words "the occupying authorities and" after the words "but not limited to" in the twelfth preambular paragraph.

7. She also proposed a new subparagraph to be inserted in operative paragraph 1 reading: "The illegal, null and void character of the establishment of Israeli settlements in Palestinian and other Arab occupied territories;".

8. She proposed to add the words "and peoples" at the end of the fourth and last operative paragraph.

9. Mr. van BOVEN said that the idea of the sponsors of the draft had not been to mention a particular situation or country, but instead to draw attention to a practice that constituted a serious violation of human rights. The resolution was therefore general in character.

10. While he personally had no objection to the first and third amendment proposed by Mrs. Ksentini, and while he did not object to the substance of the second amendment, he considered, however, that it modified to some extent the draft resolution's general slant. He pointed out that he was one of the sponsors of a draft resolution dealing with the issue raised in the second amendment but which was submitted under another agenda item.

11. Mrs. KSENTINI considered that it was not possible to speak of forced evictions without referring to the establishment of Jewish settlements in the occupied territories; she failed to see how her amendment could modify the general character of the resolution.

12. Mr. TIAN Jin said that, in his view, without the amendment proposed by Mrs. Ksentini the draft resolution was of limited interest.

13. Mrs. WARZAZI pointed out that in the sixth preambular paragraph, a reference was made to "forced evictions ... in many States and in occupied territories" and that Mrs. Ksentini's amendment merely developed that idea.

14. Mr. EIDE said that, if he was allowed the time, he would be willing to draw up a list of the many places where forced evictions occurred; the list might be included in the draft resolution.

15. The CHAIRMAN proposed that the vote on the draft resolution should be deferred to enable Mr. van Boven and Mrs. Ksentini to hold consultations and to reach an agreement.

16. It was so decided.

Draft resolution E/CN.4/Sub.2/1991/L.16

17. Mr. ILKAHANAF said that any violation of human rights ought to be examined objectively and in the light of the circumstances in which it had occurred. With regard to the exactions committed in Kuwait, the situation prevailing in that country after the departure of the Iraqi forces of occupation should therefore be taken into consideration. A large number of items of information indicated that the human rights violations reported were carried out by resistance groups which had conducted the struggle against the occupier and that the Emir of Kuwait and the Government of Kuwait had not been involved in those violations. The situation in Kuwait after the departure of the Iraqis was reminiscent of that in France at the time of the liberation. At that time, had the resistance movements not carried out extrajudicial executions? He was not seeking to justify the exactions but to assess them in the light of the circumstances.

18. Further, to ask the special rapporteur to investigate, simultaneously, in the same country and in respect of the same people both the violations committed by the Iraqi occupation forces and the exactions committed after the liberation of the country was to entrust him with an impossible mission.

19. Mrs. WARZAZI associated herself with the views expressed by Mr. Ilkahanaf and emphasized the need to study the facts in the light of the terrible suffering endured by the people of Kuwait. She also expressed surprise that

the Sub-Commission should have such a draft resolution before it whereas the previous year no one had submitted a draft resolution condemning the atrocities committed in Liberia.

20. It had taken considerable time for Kuwait to resume control of the country and to redress the situation of violence that had taken hold. The application of the death penalty had been suspended and all persons arrested for collaboration had received an assurance that they would be tried in accordance with international standards.

21. In conclusion, she proposed that the draft resolution should be held in reserve until the following year in order to allow the Government of Kuwait time to restore order in the country.

22. Mr. GUISSE developed the arguments put forward by the two previous speakers and referred, inter alia, to the fact that a committee responsible for reviewing all trials and possibly revising some of them had been set up in Kuwait.

23. The Kuwaiti authorities should be helped to improve the human rights situation and should not be upset needlessly. The draft resolution should therefore be postponed to another session in order to allow the Kuwaiti authorities time to put the country on its feet again and to put the nightmare into which it had been plunged behind it.

24. Mr. AL-KHASAWNEH said that the sponsors of the draft resolution did not pass judgement on Kuwait. They merely requested that investigations should be conducted into the allegations of human rights violations in that country.

25. In a document which it had caused to be circulated, the Permanent Mission of Kuwait stated that it trusted that all parties would endeavour to ascertain the true state of affairs by seeking detailed information from reliable sources. Who could better discharge that task than the special rapporteur?

26. It was because the international community had not given it due warning that Iraq had believed that it could invade Kuwait with impunity. It was therefore appropriate to send an unambiguous signal to Kuwait forthwith. He personally knew a Palestinian family which had had to leave Kuwait after living there for 30 years; the son had been tortured and the daughter raped after the departure of the Iraqi troops.

27. The Sub-Commission could not postpone the adoption of the draft resolution since the Kuwaiti Government was in the process of expelling a large number of people about whom little concern was shown: Palestinians, Somalis, Filipinos, etc. It was therefore necessary to act as a matter of urgency. The credibility of the Sub-Commission was at stake.

28. Mr. van BOVEN also stressed the need to act with the utmost urgency and to ensure that the rules established by the international community, which had made great efforts to free Kuwait, were respected by that country. The explanations given by Kuwait in its note verbale No. 58 concerning the expulsions were unsatisfactory.

29. The Sub-Commission should not modify the special rapporteur's mandate, but extend it, as it had done some years earlier in the case of Haiti.

30. The adoption of the draft resolution should not be postponed. By commuting a number of death sentences to life imprisonment, the Kuwaiti authorities had shown that they were not insensitive to the reactions of international public opinion.

31. Mr. TREAT said that he shared some of the opinions expressed by previous speakers. He considered that the Sub-Commission should keep the Kuwaiti authorities informed of its interest in the events that occurred in that part of the world, but he did not think that the draft resolution added much to the mandate entrusted to the special rapporteur by the Commission.

32. Mrs. WARZAZI said that she did not agree with Mr. Al-Khasawneh when he said that the draft resolution did not pass judgement. In the penultimate paragraph, the Sub-Commission said that it was "Concerned at reliable and specific reports" concerning a variety of exactions. She personally had no information of that kind about the exactions listed in the paragraph. Moreover, one could not talk about the urgency of the draft resolution, since it would not come before the Commission before February 1992.

33. Mr. AL-KHASAWNEH proposed that the paragraph cited by Mrs. Warzazi should be amended to read: "Concerned at allegations relating to specific reports concerning".

34. Mr. van BOVEN endorsed the proposal. He added, for Mrs. Warzazi's information, that the resolution was neither secret nor confidential and that the Kuwaiti authorities could therefore take cognizance of it that same day and not in six months time.

35. Mr. AL-SABAH (Observer for Kuwait) said that his country had begun to heal the wounds inflicted on it by the Iraqi occupier Kuwait, which valued justice, freedom and peace, was the target of a campaign of defamation which sought to conceal the inhuman practices of which the invasion forces had been guilty and in which certain groups residing in Kuwait had collaborated. It was only to be expected that in the first few days of freedom acts of vengeance had been committed. The Government of Kuwait had nevertheless condemned those acts and had stated that it was determined to prosecute and punish their perpetrators.

36. Since the invasion forces had carried out a scorched earth policy, the Government of Kuwait was currently engaged in rebuilding the country, restoring peace and stability and protecting citizens and residents in accordance with the law and international usages.

37. He recalled that in June 1991, Mr. Pérez de Cuéllar had saluted the efforts made by the Government of Kuwait to reconstruct the country and to guarantee fair trials to persons against whom proceedings had been instituted. He had also stated that a good deal of caution should be used when considering allegations of human rights violations in Kuwait.

38. Draft resolution E/CN.4/Sub.2/1991/L.16, as amended, was adopted by secret ballot by 16 votes to 4, with 2 abstentions.

Draft resolution E/CN.4/Sub.2/1991/L.17

39. Mrs. WARZAZI expressed surprise that a draft resolution entitled "Situation in Cambodia" should refer to Thailand (para. 6). One ought to be grateful to that country for receiving hundreds of thousands of refugees.

40. Mr. GUISSE said that the previous year, the Sub-Commission had decided to postpone consideration of the situation in Cambodia because of the process of reconciliation that had been started. Today, the Sub-Commission had before it a draft resolution but had not been informed of developments in the situation. Further, the title of the draft was far too vast and the resolution itself was full of ambiguities.

41. Mr. TIAN Jin said that the peaceful settlement of the Cambodian question was an international event of the first importance. The agreement had come about as a result of the efforts of the five permanent members of the Security Council, the Co-Presidents of the Paris Conference on Cambodia and the various Cambodian parties.

42. In the document prepared by them a year earlier, the five permanent members of the Security Council had taken into consideration the question of human rights in Cambodia. Since the Sub-Commission was not well informed about the consultations which were currently taking place, the draft resolution might impede the process that was under way.

43. Mr. EIDE said that there was no need to brief the experts of the Sub-Commission on the large-scale human rights violations that had taken place in Cambodia since at least 1975, as the whole world knew of those events as a result of the many books, films and other documents devoted to that question.

44. The draft resolution did not rebuke Thailand in any way. It merely drew attention to the many refugees who were outside Cambodia in camps controlled by one or other party to the conflict and whose rights were often violated.

45. Draft resolution E/CN.4/Sub.2/1991/L.17 was adopted by secret ballot by 14 votes to 4, with 4 abstentions.

Draft resolution E/CN.4/Sub.2/1991/L.18

46. Draft resolution E/CN.4/Sub.2/1991/L.18 was adopted by secret ballot by 19 votes to 2, with 1 abstention.

Draft resolution E/CN.4/Sub.2/1991/L.19

47. Mr. TIAN Jin said that the draft resolution gave a distorted view of Tibet, as regards its history, geography, demographic structure, social structure, cultural and religious life and national identity.

48. For more than 700 years, Tibet had been an integral part of China. From the thirteenth century onwards, the Chinese Government had appointed the senior officials of Tibet, organized censuses, collected taxes and laid down very specific regulations relating to the administration of Tibet. Their titles were also conferred on the Dalai Lama and the Panchen Lama by the

central Government. Only those who were nostalgic for colonialism and wished to dismember China denied that Tibet was an integral part of the country.

49. A handful of persons deliberately confused the Autonomous Region of Tibet with other regions having a Tibetan population. They dreamed of controlling the so-called Great Tibet. Tibetans were but one of China's 56 nationalities, the Han forming the country's majority population. Those who deliberately used the term Chinese in place of the word Han or who claimed that Tibetans were not Chinese had also invented the story of massive population transfers of the Han people to Tibet in order to deceive people.

50. At the demographic level, according to a nationwide census organized the previous year, the Tibetan region had 2,986,000 inhabitants, 94.46 per cent of whom were Tibetans. The number of Tibetans living in Tibet had risen from 1 million in 1949 to 2 million at the end of the 1980s. That being the case, how could one repeat again and again that Tibetans were a minority in Tibet and were facing extinction? Moreover, family planning had never been applied to the bulk of the Tibetan population, i.e. to the farmers and the herdsmen, and it was expected that improved health care would lead to a rapid growth of the population.

51. As to the social status of Tibetans, it should be borne in mind that at the end of the 1940s, 90 per cent had been serfs who were treated like animals. Only since 1959 had they enjoyed human rights and fundamental freedoms under a comprehensive system of regional autonomy. Their conditions of life were improving from day to day.

52. At the cultural level, the Tibetan language was an official language which was taught in Tibet and used widely by the information media and in various publications. Tibetan folklore was very much alive among Tibetans. It was also very popular all over China. It could be said without exaggeration that far from declining, Tibetan culture was flourishing as never before.

53. In matters of religion, a handful of persons alleged that religious life in Tibet was threatened. It was true that during the Cultural Revolution, many monasteries had been damaged. However, at the time, excesses had been committed throughout China and not only in Tibet. Since then, Tibetans had enjoyed complete religious freedom.

54. The allegations to the effect that the cultural identity of Tibetans was being threatened were groundless. Tibetan medicine, architecture and handicrafts were extremely well protected. The Chinese people were proud of the cultural diversity of the various nationalities.

55. Needless to say, in Tibet as in other regions of China or in other countries in the world, the situation of human rights could be improved. But those who distorted the facts, who clamoured for the independence of Tibet, who talked about alleged violations of human rights pursued only one objective, to foment disorders in China and to split the country. In conclusion, he invited the Sub-Commission to reject draft resolution E/CN.4/Sub.2/1991/L.19 which he found to be totally misleading.

56. Mr. van BOVEN, said that Mrs. Bautista and himself had prepared the draft resolution on the basis of disquieting reports relating to arrests of demonstrators, excessive use of force against them, persecution of monks and nuns and migratory movements designed to change the demographic composition of Tibet. The sole purpose of the draft resolution was to defend the human rights and cultural identity of the Tibetan people and it had been drafted in very measured terms intentionally.

57. Draft resolution E/CN.4/Sub.2/1991/L.19 was adopted by secret ballot by 9 votes to 7, with 4 abstentions.

58. The CHAIRMAN gave the floor to the observer for China, Mr. Fan Guoxiang, with the assent of the members of the Sub-Commission.

59. Mr. FAN GUOXIANG (Observer for China) said that his delegation deeply regretted that the draft resolution entitled "Situation in Tibet" had been adopted. It was known to all that Tibet had always been an inalienable part of Chinese territory. For centuries, Tibetans had been subjected to the system of serfdom. Serfs had not enjoyed any personal freedom. The democratic reforms introduced in Tibet had enabled millions of serfs to truly enjoy democracy, freedom and human rights.

60. The resolution was not designed to settle problems of human rights, ethnic identity or religious belief. The fact was that a very small number of Tibetan separatists, in collusion with some foreign political forces, were trying to make use of the Sub-Commission to spread rumours and confuse international opinion, in an attempt to split Tibet from China.

61. Such a resolution ran counter to the mandate of the Sub-Commission which was to promote and protect human rights. It ran counter to the purposes and principles set forth in the Charter of the United Nations. His delegation categorically rejected it, considering it to be null and void and having no binding force whatsoever, vis-à-vis China. Any attempt to split Tibet from China was doomed to failure.

Draft resolution E/CN.4/Sub.2/1991/L.21

62. Mr. TREAT said that after having consulted the interested parties, the two sponsors of the draft resolution, namely, Mr. Merills and himself, wished the draft to be withdrawn and in its place a consensus statement read out by the Chairman.

63. After a debate in which Mr. ALFONSO MARTINEZ, Mr. TREAT and Mr. TURK took part, the CHAIRMAN proposed to postpone reading the consensus statement to enable all members of the Sub-Commission to take cognizance of it. He invited Mr. Treat to make the contacts necessary to reach a solution satisfactory to all.

64. It was so decided.

The meeting rose at 9.05 p.m.